

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

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the ratio of service area square footage times the nursing facility's property related payment rate. Nursing facilities that are reimbursed according to Section 21.000 and are located in a county participating in the state's §1115 prepaid medical assistance waiver program are exempt from the maximum therapy rent revenue provisions of this item.

D. The Department shall require reporting of all revenues relating to the provision of therapy services and shall establish a therapy cost to revenue ratio for the reporting year ending in 1986. For subsequent reporting years, the ratio may increase five percentage points in total until a new base year is established. Increases in excess of five percentage points may be allowed if adequate justification is provided to and accepted by the Department. Unless an exception is allowed the amount of offset in item B is the greater of the amount determined in item B or the amount of offset that is imputed based on one minus the lesser of: (1) the actual reporting year ratio; or (2) the base reporting year ratio increased by five percentage points, multiplied by the revenues.

E. A new reporting year base for determining the cost to revenue ratio may be established.

F. If the arrangement for therapy services is changed so that a nursing facility is subject to the provisions of item B instead of item C, an average cost to revenue ratio based on the ratios of nursing facilities that are subject to the provisions of item B shall be imputed for item D.

G. This section does not allow unrelated nursing facilities to reorganize related organization therapy services and provide services among themselves to avoid offsetting revenues. Nursing facilities that are found to be in violation of this provision shall be subject for treble civil damages on that portion of the fee in excess of that allowed. Damages awarded must include three times the excess payments together with cost and disbursements including reasonable attorney's fees or their equivalent.

H. Section 20.030 does not apply to nursing facilities that are reimbursed according to Section 21.000 and are located in a county participating in the State's §1115a prepaid medical assistance waiver program.

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SECTION 21.000 CONTRACTUAL ALTERNATIVE PAYMENT RATES AFTER AUGUST 1, 1995

SECTION 21.010 Contractual alternative payment rate. A nursing facility may apply to be paid a contractual alternative payment rate instead of the cost-based payment rate established under Sections 1.000 to 20.000. A nursing facility selected to receive an alternative payment rate must enter into a contract with the state. Payment rates and procedures for facilities selected to receive an alternative payment rate are determined and governed by this section and by the terms of the contract. Different contract terms for different nursing facilities may be negotiated.

SECTION 21.020 Requests for proposals.

A. At least twice annually the ~~Commissioner~~ Department will publish a request for proposals to provide nursing facility services according to this section. All proposals must be responded to in a timely manner.

B. Any proposal may be rejected if, in the judgment of the ~~Commissioner~~ Department, a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

SECTION 21.030 Proposal requirements.

A. In issuing the request for proposals, the ~~Commissioner~~ Department may develop reasonable requirements which, in the judgment of the ~~Commissioner~~ Department, are necessary to protect residents or ensure that the contractual alternative payment demonstration project furthers the interest of the state of Minnesota.

B. The request for proposals may include, but need not be limited to, the following:

- (1) A requirement that a nursing facility make reasonable efforts to maximize Medicare payments on behalf of eligible residents;
- (2) Requirements designed to prevent inappropriate or illegal discrimination against residents enrolled in the medical assistance program as compared to private paying residents;
- (3) Requirements designed to ensure that admissions to a nursing facility are appropriate and that reasonable efforts are made to place residents in home and

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community-based settings when appropriate; .

(4) A requirement to agree to participate in a project to develop data collection systems and outcome-based standards for managed care contracting for long-term care services;

(5) A requirement that contractors agree to maintain Medicare cost reports and to submit them to the ~~Commissioner~~ Department upon request or at times specified by the ~~Commissioner~~ Department;

(6) A requirement for demonstrated willingness and ability to develop and maintain data collection and retrieval systems to be used in measuring outcomes; and

(7) A requirement to provide all information and assurances required by the terms and conditions of federal approval.

SECTION 21.040 Selection process.

A. The number of proposals that can be adequately supported with available state resources, as determined by the ~~Commissioner~~ Department, may be accepted.

B. The ~~Commissioner~~ Department may accept proposals from a single nursing facility or from a group of facilities through a managing entity.

C. The ~~Commissioner shall~~ Department will seek to ensure that nursing facilities under contract are located in all geographic areas of the state.

D. In addition to the information and assurances contained in the submitted proposals, the ~~Commissioner~~ Department may consider the following in determining whether to accept or deny a proposal:

(1) The facility's history of compliance with federal and state laws and rules, except that a facility deemed by the ~~Commissioner~~ Department to be in substantial compliance with federal and state laws and rules is eligible to respond to a request for proposal. A facility's compliance history is not the sole determining factor in situations where the facility has been sold and the new owners have submitted a proposal;

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(2) Whether the facility has a record of excessive licensure fines or sanctions or fraudulent cost reports;

(3) The facility's financial history and solvency; and

(4) Other factors identified by the Commissioner Department that the Commissioner it deems relevant to a determination that a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

E. If the Commissioner Department rejects the proposal of a nursing facility, the Commissioner shall it will provide written notice to the facility of the reason for the rejection, including the factors and evidence upon which the rejection was based.

SECTION 21.050. Duration and termination of contracts.

A. Contracts with nursing facilities may be executed beginning November 1, 1995.

B. All contracts entered into under this section are for a term of one year.

C. Either party may terminate a contract at any time without cause by providing ~~30~~ 90 calendar days advance written notice to the other party. The decision to terminate a contract is not appealable.

D. ~~If neither party provides written notice of termination the contract will be renegotiated for additional one-year terms, for up to a total of four consecutive one-year terms. The contract will be renegotiated for additional one-year terms, unless either party provides written notice of termination.~~ The provisions of the contract will be renegotiated annually by the parties before the expiration date of the contract.

E. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

F. If a nursing facility fails to comply with the terms of a contract, the Commissioner shall Department will provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance.

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G. If the facility fails to come into compliance or to remain in compliance, the Commissioner Department may terminate the contract. If a contract is terminated, the contract payment remains in effect for the remainder of the rate year in which the contract was terminated, but in all other respects the provisions of this section do not apply to that facility effective as of the date the contract is terminated.

H. The contract must contain a provision governing the transition back to the cost-based reimbursement system established under Sections 1.000 to 20.000.

SECTION 21.060 Alternative rates for nursing facilities.

For nursing facilities that have their payment rates determined pursuant to this section rather pursuant to Sections 1.000 to 20.000, a rate must be established under this section as follows:

A. The nursing facility must enter into a written contract with the Commissioner Department;

B. A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the same payment rate as established for the facility under Sections 1.000 to 20.000;

C. A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment as provided in items D and E.

D. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the rate year.

E. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined.

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F. For the rate years beginning July 1, 1999 and July 1, 2000, items C, D, and E apply only to the property related payment rate. In determining the amount of the property related payment rate adjustment under items C, D and E, the Department must determine the proportion of the nursing facility's rates that are property related based on the facility's most recent cost report.

SECTION 21.065 Facility rate increases beginning July 1, 1999. For the rate year beginning July 1, 1999, a nursing facility's case mix rate is divided into the following components: compensation operating rate, non-compensation operating rate, property rate and other-components rate. The compensation and non-compensation operating rates are increased by the percentages in Section 11.049, item B, subitem (1), respectively. The property related payment rate is increased as described in Section 21.060, item F. The other-components rate is not increased from the June 30, 1999 rate.

A. A nursing facility in Becker county licensed for 102 beds on September 30, 1998 receives the following increases:

- (1) \$1.30 in its case mix class A payment rate;
- (2) \$1.33 in its case mix class B payment rate;
- (3) \$1.36 in its case mix class C payment rate;
- (4) \$1.39 in its case mix class D payment rate;
- (5) \$1.42 in its case mix class E and F payment rate;
- (6) \$1.45 in its case mix class G payment rate;
- (7) \$1.49 in its case mix class H payment rate;
- (8) \$1.51 in its case mix class I payment rate;
- (9) \$1.54 in its case mix class J payment rate; and
- (10) \$1.59 in its case mix class K payment rate;

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B. A nursing facility in Chisago county licensed for 101 beds on September 30, 1998 receives an increase of \$3.67 in each case mix payment rate:

C. A nursing facility in Canby, licensed for 75 beds will have its property-related per diem rate increased by \$1.21. This increase will be recognized in the facility's contract payment rate under this section.

D. A nursing facility in Golden Valley with all its beds licensed to provide residential rehabilitative services to physically handicapped young adults has the payment rate computed according to this section increased by \$14.83; and

E. A county-owned 130-bed nursing facility in Park Rapids has its per diem contract payment rate increased by \$1.02 for costs related to compliance with comparable worth requirements.

SECTION 21.070 Contract payment rates; appeals. If a provider appeal is pending concerning the cost-based payment rates that are the basis for the calculation of the payment rate under the contractual alternative payment methodology, the ~~Commissioner~~ Department and the nursing facility may agree on an interim contract rate to be used until the appeal is resolved. When the appeal is resolved, the contract rate must be adjusted retroactively in accordance with the appeal decision.

SECTION 21.080 Exemptions. To the extent permitted by federal law:

A. Nursing facilities that are Medicare certified and filing a Medicare cost report and have entered into a contract under this section are not required to file a cost report as described in Section 2.000 for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment contract. Nursing facilities that are not Medicare certified and are not filing a Medicare cost report must file a cost report as described in Section 2.000.

B. A facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract, and all subsequent rate years affected by changes to that first rate year payment rate.

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B. The nursing facility may also be required to establish expedited grievance procedures to resolve complaints made by short-stay residents.

C. The facility must notify its resident council of its intent to enter into a contract and must consult with the council regarding any changes in operation expected as a result of the contract.

SECTION 21.100 Contracts are voluntary.

A. Election by a nursing facility of the contractual alternative payment rate is voluntary.

B. The terms and procedures governing the alternative payment rates are determined under Section 21.000 and through negotiations between the Commissioner Department and nursing facilities that have submitted a letter of intent to elect the alternative payment rate.

C. For purposes of developing requests for proposals and contract requirements, and negotiating the terms, conditions, and requirements of contracts, the Commissioner Department is exempt from state rulemaking requirements.

SECTION 21.110 Federal requirements. The ~~Commissioner shall~~ Department will implement the contractual alternative payment methodology subject to any required federal approvals, and in a manner that is consistent with federal requirements. If a provision of this section is inconsistent with a federal requirement, the federal requirement supersedes the inconsistent provision. The ~~Commissioner shall~~ Department will seek federal approval and request waivers as necessary to implement this section.

SECTION 21.120 Salary adjustments. Effective July 1, 1998, and ending June 30, 2000 2001 if the performance-based contracting payment system is not implemented until July 1, 2001, the Department ~~shall~~ will make available the appropriate salary adjustment per diem calculated in Section 11.055 to the total operating cost payment rate of each nursing facility subject to payment under this section.

**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES FOR
SERVICES PROVIDED BY INTERMEDIATE CARE FACILITIES FOR
THE MENTALLY RETARDED (ICFs/MR) WHICH ARE NOT STATE-OWNED**

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